IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Con.Case(C).No. 1643 of 2007(S)

AGAINST THE ORDER IN WPC.15339/2007 Dated 04/10/2007

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PETITIONER/PETITIONER:

VIKRAM SARABHAI EDUCATIONAL TRUST & B.ED.COLLEGE,
KAIPAMANGALAM, TRICHUR DISTRICT,
REPRESENTED BY THE CHAIRMAN K.D.NEELAMBARAN.

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS/RESPONDENTS:

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1. **T.K.NARAYANAN,**
AGE AND NAME OF THE FATHER -
NOT KNOWN TO THE PETITIONER,
REGISTRAR, UNIVERSITY OF CALICUT.

2. **DR.ANWAR JAHAN SUHARI**,
AGED AND NAME OF THE FATHER -
NOT KNOWN TO THE PETITIONER,
VICE CHANCELLOR,
UNIVERSITY OF CALICUT.

BY ADV. SRI. P.C. SASIDHARAN.

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.M. JOSEPH, J.

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Cont. Case (C) No.1643 of 2007

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Dated this the 17th day of December, 2007.

JUDGMENT

H.L.DATTU, CJ,

Petitioner in W.P.(C) 15339 of 2007 is the complainant in this Contempt of Court Case filed under Sections 11 and 12 of Contempt of Courts Act read with Article 215 of the Constitution of India.

2. In this contempt petition, complainant alleges that the respondents have wilfully and deliberately disobeyed the orders and directions issued by this court dated 4.10.2007. Therefore, a request is made to initiate appropriate contempt proceedings against the contemners and punish them for their so-called wilful and deliberate disobedience of the orders and directions issued by this court dated 4.10.2007.

3. When the matter was posted for admission, we had issued notice to the respondents/contemners. They have entered appearance through the learned counsel. They have also filed a counter affidavit before this court and along with that they have enclosed the order passed by a Division Bench of this court in R.P. No.1152 of 2007.

4. This court, after hearing the parties to the lis, has passed an interim order dated 4.10.2007. By the said order, the court had directed the respondents herein to grant provisional affiliation to the B.Ed. Course for the academic year 2007-2008 and the said affiliation is subject to the final result of the writ petition.

5. It appears, when the matter was posted before the court, it was brought to the notice of the court a ruling of the Apex Court in the case of *State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavavidyalaya and others* ((2006) 9 SCC 1).

6. In view of the decision of the Apex Court, it appears, the Division Bench was of the opinion that the case decided by a Bench of this court in the case of *Rural Education and Social Trust Vs. University of Calicut* (2007(2) KLT 609) requires consideration/re-consideration, and accordingly, has referred the matter to the Full Bench for appropriate orders.

7. The University has filed Review Petition No.1152 of 2007 in W.P. (C) 15339 of 2007, wherein the interim orders are passed by this court. The learned Judges being of the opinion that since the writ petition itself is referred to a Full Bench, it may not be proper for them to hear the review petition and therefore has reserved liberty to the University to move the Full Bench for appropriate modification of the interim order, if they are so advised.

8. The order passed by this court in Review Petition No.1152 of 2007 is as under:

> "The writ petition has already been referred by us to the Full Bench. Annexure A1 interim order is passed based on the finding in the reference order. The University seeks review of that order based on certain facts revealed on the inspection held by its competent body after the issuance of the interim order. We are of the view that as the Writ Petition is already referred to the Full Bench, it is not proper for us to

> hear the matter. The University can move the Full Bench for appropriate modification of the interim order, if so advised. In view of the above position, the RP is closed without prejudice to the contention of the review petitioners and their right to move the Full Bench for appropriate orders."

9. In the instant case, as we have already noticed, a Division Bench of this court has passed an interim order directing the University to grant provisional affiliation to the petitioner College to commence B.Ed. Course for the academic year 2007-2008. The University has its own grievances against the interim order so passed. Therefore, they have filed a review petition before the Bench, which granted the interim order. Now the Bench, while disposing of R.P. No.1152 of 2007, has permitted the review petitioners to move the Full Bench for appropriate orders. That only means that liberty is given to the University to file the review petition, if they so desire, before the Full Bench for appropriate orders.

10. Section 2(b) of the Contempt of Courts Act defines 'civil contempt'. It means wilful disobedience to any judgment, decree, direction, order, writ or other process of a Court or wilful breach of an undertaking given to a Court.

11. In the instant case, since the respondents have filed a review petition and that review petition is closed by the Division Bench, but liberty is reserved to the review petitioners to move the Full Bench in the writ petition, which is referred for consideration of the Full Bench, we are of the opinion that there is no wilful or deliberate disobedience of the interim order issued by this court. In the absence of wilful or deliberate disobedience from the respondents to the orders passed by this court, this court cannot initiate any contempt proceedings. In view

of the above, for the present, we do not intend to take cognizance of the complaint filed by the complainant. Therefore, the proceedings are dropped/closed. Liberty is reserved to the petitioner to approach this court, if need arises, in future. Any observation made by us is only for the purpose of this contempt petition.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE

K.M. JOSEPH,
JUDGE

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